

**Introduced by Senator Gaines**

February 5, 2015

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An act to amend Section 4004 of, *and to add Section 4004.6 to*, the Penal Code, relating to ~~prisons~~; *imprisonment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 171, as amended, Gaines. County jail inmates: involuntary transfer.

Existing law requires a prisoner who is committed to a county jail to be actually confined until legally discharged. Existing law authorizes a sheriff, if facilities are no longer available in a county jail due to crowded conditions, to transfer a person committed to a county jail upon conviction for a public offense to facilities that are available in a city jail.

*This bill would authorize the sheriff of a county, if the county jail is over 80% capacity, to contract with any state, county, or private jail or prison system in the United States for the confinement of inmates on behalf of the county and to transfer inmates to those facilities, with or without the inmate's permission. The bill would authorize the county to submit an invoice, and the Department of Corrections and Rehabilitation to pay, for the actual cost of housing and transportation of transferred inmates. The bill would appropriate an unspecified amount from the General Fund to the Department of Corrections and Rehabilitation for these purposes.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4004 of the Penal Code is amended to  
2 read:

3 4004. (a) A ~~prisoner~~ *person* committed to a county jail for  
4 examination, or upon conviction for a public offense, shall be  
5 actually confined in the jail until legally discharged. If the prisoner  
6 is permitted to go at large out of the jail, except by virtue of a legal  
7 order or process, it is an escape. However, during the pendency  
8 of a criminal proceeding, the court before which that proceeding  
9 is pending may make a legal order, *with good cause appearing*  
10 ~~therefor~~, for the removal of the prisoner from that county jail in  
11 custody of the sheriff. In courts with a marshal, the marshal shall  
12 maintain custody of the prisoner while the prisoner is in the court  
13 facility pursuant to the court order. The superior court of a county  
14 may make a legal order, *with good cause appearing* ~~therefor~~, for  
15 the removal of prisoners confined in a county jail, after conviction,  
16 in the custody of the sheriff.

17 ~~If~~

18 (b) *If facilities are no longer available in a county jail due to*  
19 *crowded conditions, the sheriff may transfer a person committed*  
20 *to that county jail upon conviction for a public offense to facilities*  
21 *that are available in a city jail, as provided for in Section* ~~4004.5.~~  
22 *4004.5, or to another facility as provided in Section 4004.6.*

23 SEC. 2. Section 4004.6 is added to the Penal Code, to read:

24 4004.6. (a) *The sheriff of a county may, if the county jail is*  
25 *over 80 percent capacity, contract with any state, county, or private*  
26 *jail or prison system in the United States for the confinement of*  
27 *inmates on behalf of the county.*

28 (b) *The sheriff may transfer any person committed to the county*  
29 *jail upon conviction for a public offense to a facility with which*  
30 *the county has a contract, pursuant to subdivision (a), with or*  
31 *without the inmate's consent. Transfers shall be at the discretion*  
32 *of the county sheriff.*

1     (c) *The county may submit to the Department of Corrections*  
2 *and Rehabilitation an invoice showing the actual cost of housing*  
3 *and transportation of the inmates, including, but not limited to,*  
4 *personnel costs. The department shall reimburse the county for*  
5 *all costs incurred to house and transport inmates who are relocated*  
6 *pursuant to this section.*

7     SEC. 3. *The amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) is hereby*  
8 *appropriated from the General Fund to the Department of*  
9 *Corrections and Rehabilitation to pay the cost of housing and*  
10 *transportation of inmates incurred pursuant to Section 4004.6 of*  
11 *the Penal Code.*

12     SEC. 4. *This act is an urgency statute necessary for the*  
13 *immediate preservation of the public peace, health, or safety within*  
14 *the meaning of Article IV of the Constitution and shall go into*  
15 *immediate effect. The facts constituting the necessity are:*

16     *In order to preserve the safety of the people of California by*  
17 *preventing early release of county jail inmates, it is necessary for*  
18 *this measure to take effect immediately.*